



Northeast Arizona Technological Institute of Vocational Education

P.O. Box 710 • Kayenta, AZ 86033

November 2, 2010

Letter of Appeal

Schools and Libraries Division – Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

Re: Appeal of Administrator's Decision on Appeal – Funding Year 2007-2008, dated September 24, 2010

Authorized person who can best discuss this Appeal with you

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 130E
Parsippany, NJ 07054

Phone: (888) 535-7771 ext 102
Fax: (866) 569-3019
Email: rlarson@erate360.com
(preferred mode of contact)

Application Information

<u>Entity</u>	NATIVE Vocational District
<u>Billed Entity Number</u>	16020596
<u>Funding Year</u>	FY10 (2007-2008)
<u>Form 471 Application Numbers</u>	570160
<u>Funding Request Number</u>	1607690

Documents Being Appealed Administrator's Decision on Appeal – Funding Year 2007-2008, dated September 24, 2010

Item Being Appealed: Funding Request Number 1607690

Explanation: ... As a result, USAC will seek recovery of improperly disbursed funds in the amount of \$2,343.15.¹

Appeal:

Northeast Arizona Technological Institute of Vocational Education Vocational District (NATIVE) requests that the Schools and Libraries Division (SLD) reduce the amount of improperly disbursed funds it seeks to recover for FRN 1607690 to \$1,854.76.

¹ Letter from USAC, Schools and Libraries Division, to Richard Larson (E-rate consultant to NATIVE Vocational District), dated September 24, 2010, entitled "Administrator's Decision on Appeal – Funding Year 2007-2008" re Funding Request Numbers 1607535, 1607598, 1607717, 1607690.

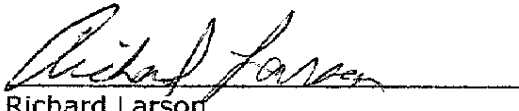
In its decision, USAC determined that "the District technology plan was approved on July 2, 2007" and that, as a consequence, "one day of services was not covered by an approved technology plan."

The service provider, Navajo Comm Co. (aka Frontier) invoiced NATIVE \$62,520.00 for the 30-day period of June 11 through July 10, 2007. The cost allocated to one day (1/30th) is \$2,084.00. The 89% discount on this amount is \$1,854.76.

On this basis, NATIVE requests SLD to reduce the amount of improperly disbursed funds it seeks to recover for FRN 1607690 by \$488.39 to \$1,854.76. NATIVE is prepared to pay this amount upon presentation of a suitably modified Demand Payment Letter.

NATIVE appreciates the SLD's consideration of its appeal. We are available to respond to questions or to provide any further information requested by the SLD.

Authorized signature for this Appeal²



Richard Larson
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Date: 11/2/10

² "Letter of Agency" from Karen C. Leshner, Superintendent, NATIVE Vocational District (NATIVE), authorizing employees of eRate 360 Solutions, LLC, to perform e-rate services on behalf of NATIVE.



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2007-2008

September 24, 2010

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 130E
Parsippany, NJ 07054

Re: Applicant Name: NATIVE VOCATIONAL DISTRICT
Billed Entity Number: 16020596
Form 471 Application Number: 570160
Funding Request Number(s): 1607535, 1607598, 1607717, 1607690
Your Correspondence Dated: September 13, 2010

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of USAC's Funding Year 2007 Notification of Improperly Disbursed Funds Letter for the Application Number indicated above. This letter explains the basis of USAC's decision. The date of this letter begins the 60 day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1607535, 1607598, 1607717
Decision on Appeal: **Approved**
Explanation:

- Your appeal has brought forward persuasive information that the funding commitment for the funding requests cited above should be restored. Therefore, funds will be restored to the Pre-COMAD commitment amount.

Funding Request Number(s): 1607690
Decision on Appeal: **Partially Approved**
Explanation:

- Your appeal has brought forward persuasive information that the funding commitment for the funding request cited above should be restored. Therefore, funds will be restored to the Pre-COMAD commitment amount. However, regarding the improperly disbursed funds issue the record shows that Native

Vocational District (the District) was approved for E-rate discounts on services other than "POTS" wireless and wireline telephone services for which a technology plan is required. The record also shows that this is a request for DS-3 services. Form 486 Application number 432930's certification was postmarked April 10, 2008 and listed a service start date of July 1, 2007. The Technology Plan Approval Letter (TPAL) enclosed with the appeal letter indicates that the District technology plan was approved on July 2, 2007. The rules of this support mechanism dictate that applicant's technology plan on which they based their purchases have to be approved before the start of service. Since the District did not comply with this program requirement, one day of services was not covered by an approved technology plan. As a result, USAC will seek recovery of improperly disbursed funds in the amount of \$2,343.15. Consequently, your appeal of this funding request is partially approved.

FCC Rules require applicants to certify on their FCC Form 470 and FCC Form 471 that the entities receiving products and/or services other than basic telephone service are covered by an individual and/or higher-level technology plan that has been, or is in the process of being approved. 47 C.F.R. sec. 54.504(b)(2)(iii) and (iv); 47 C.F.R. sec. 54.504(c)(1)(iv) and (v). The applicants are required to obtain approvals of their technology plans from their state, the Administrator, or an independent entity approved by the Commission and certified by USAC as qualified to provide such approval. On their FCC Form 486, applicants confirm that their plan was approved before they began receiving services. Pursuant to the FCC's Fifth Report and Order (FCC 04-190, released August 13, 2004), FCC Rules require technology plans to include five mandatory content elements relating to the applicant's educational development strategies. See 47 C.F.R. sec. 54.508 for technology plan requirements.

If your appeal has been denied in full, partially approved, dismissed, or canceled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD section of the USAC website or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: Karen Leshner

Richard Larson
eRate 360 Solutions, LLC
322 Route 46W, Suite 130E
Parsippany, NJ 07054

Billed Entity Number: 16020596
Form 471 Application Number: 570160
Form 486 Application Number:

Letter of Agency

NATIVE Vocational District
Billed Entity Number: 16020596

Letter of Agency For FY 10 (2007 - 2008); FY 11 (2008 - 2009); FY 12 (2009-2010)

I hereby authorize eRate 360 Solutions, LLC and its employees: Keith C. Oakley, Steve Tenzer, Rich Larson, Carlos Alvarez, Matt Hetman, Paul Holt, Bert Garofano, and Al Arauz to submit FCC Form 470, FCC Form 471, and other E-rate forms, and to submit various change applications such as SPIN changes and service substitutions, to the Schools and Library Division of the Universal Service Administrative Company on behalf of **NATIVE Vocational District** for all eligible services outlined in the most current "Eligible Services List" published by USAC. I understand that, in submitting these forms on our behalf, you are making certifications for **NATIVE Vocational District**. By signing this Letter of Agency, I make the following certifications

- (a) I certify that **schools in our district** are all schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.
- (b) I certify that our **school district** has secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that to the extent that the Billed Entity is passing through the non-discounted charges for the services requested under this Letter of Agency, that the entities I represent have secured access to all of the resources to pay the non-discounted charges for eligible services from funds to which access has been secured in the current funding year.
- (c) I certify that our **school district** is covered by a technology plan(s) that is written, that covers all 12 months of the funding year, and that has been or will be approved by a state or other authorized body, or an SLD-certified technology plan approver, prior to the commencement of service. The plan(s) is written at the following level(s):
 - ☐ an individual technology plan for using the services requested in this application; and/or
 - ☒ higher-level technology plan(s) for using the services requested in this application; or
 - ☐ no technology plan needed; applying for basic local, cellular, PCS, and/or long distance telephone service and/or voice mail only.
- (d) I certify that the services the district purchases at discounts provided by 47 U.S.C. § 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value, except as permitted by the rules of the Federal Communications Commission (Commission or FCC) at 47 C.F.R. § 54.500(et seq.).
- (e) I certify that our **school district** has complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.
- (f) I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

- (g) I certify that I will retain required documents for a period of at least five years after the last day of service delivered. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to the Administrator. I acknowledge that I may be audited pursuant to participation in the schools and libraries program.
- (h) I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) covered by this Letter of Agency. I certify that I am authorized to make this request on behalf of the eligible entity(ies) covered by this Letter of Agency, that I have examined this Letter, that all of the information on this Letter is true and correct to the best of my knowledge, that the entities that will be receiving discounted services under this Letter pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.
- (i) I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities, or any person associated in any way with my entity and/or the entities, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.
- (j) I certify, on behalf of the entities covered by this Letter of Agency, that any funding requests for internal connections services, except basic maintenance services, applied for in the resulting FCC Form 471 application are not in violation of the Commission requirement that eligible entities are not eligible for such support more than twice every five funding years beginning with Funding Year 2005 as required by the Commission's rules at 47 C.F.R. § 54.506(c).
- (k) I certify that, to the best of my knowledge, the non-discount portion of the costs for eligible services will not be paid by the service provider. I acknowledge that the provision, by the provider of a supported service, of free services or products unrelated to the supported service or product constitutes a rebate of some or all of the cost of the supported services.
- (l) I certify that I am authorized to sign this Letter of Agency and, to the best of my knowledge, information, and belief, all information provided to eRate 360 Solutions, LLC for E-rate submission is true.

District: NATIVE Vocational District

Date: September 10, 2009

Signature: 

Printed Name: Karen C. Lesh

Title: Superintendent